

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2007-286-WS – ORDER NO. 2008-96
FEBRUARY 11, 2008

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| IN RE: Application of Utilities Services of) | |
| South Carolina, Inc. for Adjustment) | ORDER DENYING INCREASE |
| of Rates and Charges and) | IN RATES AND CHARGES |
| Modifications to Certain Terms and) | |
| Conditions for the Provision of) | |
| Water and Sewer Service.) | |
| _____) | |

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (“the Commission”) on an Application for approval of a new schedule of rates and charges for water and sewer services (“Application”) filed by Utilities Services of South Carolina, Inc. (“USSC” or the “Company”). USSC’s service area includes portions of Abbeville, Anderson, Lexington, Richland, Saluda, and York Counties. According to USSC’s Application, water supply and distribution services were provided to 6,854 residential and commercial customers, and wastewater collection and treatment services were provided to 376 residential and commercial customers. This Commission approved a revenue increase of \$614,708 pursuant to Order No. 2006-22, dated January 19, 2006. The Company now seeks approval of additional revenues of \$772,965, based on the proposed Orders submitted by the parties in this case.

USSC's Application and Proposed Schedule of Rates and Charges were filed with the Commission on August 6, 2007. No parties filed Petitions to Intervene in this matter.

The Commission instructed USSC to publish a prepared Notice of Filing in a newspaper of general circulation in the areas affected by USSC's Application. The Notice of Filing indicated the nature of the Application and advised all interested persons desiring to participate in the scheduled proceedings of the manner and time in which to file appropriate pleadings for inclusion in the proceedings. In the same correspondence, the Commission also instructed USSC to notify each customer affected by the Application. USSC furnished the Commission with an Affidavit of Publication demonstrating that the Notice of Filing had been duly published and with a letter in which USSC certified compliance with the Commission's instruction to mail a copy of the Notice of Filing to all customers affected by the Application. The Commission issued a Notice of Filing and Hearing in this matter on August 17, 2007, setting this matter for a full hearing before the Commission on December 13, 2007.

On September 27, 2007, the Commission issued Order No. 2007-673 granting a request for local public hearings and ordered the Commission Staff to set public hearings in Anderson and York Counties. Under this Order, public hearings were set and noticed by the Commission to be held in York County at Rock Hill City Hall on November 5, 2007, and at the Anderson County Library on November 7, 2007. The Commission received sworn public testimony from customers of the Company at these two public hearings and also at the hearing in the Commission's offices on December 13, 2007.

Between the filing of the Company's Application and the date of the hearing, the Office of Regulatory Staff (ORS) made on-site investigations of USSC's facilities, examined USSC's books and records, and gathered detailed information concerning USSC's operations.

On December 13, 2007, a hearing concerning the matters asserted in USSC's Application was held in the Commission's hearing room located at Synergy Business Park, 101 Executive Center Drive, Saluda Building, Columbia, S.C. The full Commission, with Chairman O'Neal Hamilton presiding, heard the matter of USSC's Application. John M. S. Hoefer, Esquire, and Benjamin P. Mustian, Esquire, represented USSC. Jeffrey Nelson, Esquire, and Shealy Reibold, Esquire, represented the Office of Regulatory Staff. David Butler, Esquire, served as legal counsel to the Commission.

At the outset of the December 13, 2007 hearing, the Commission heard testimony from additional public witnesses. A total of five public witnesses testified at that hearing.

USSC also presented the testimony of Pauline M. Ahern (Principal of AUS Consultants), Dr. B.R. Skelton (consultant regarding rate of return), Lena Georgiev (Senior Regulatory Accountant at Utilities, Inc.), and Bruce T. Haas (Regional Director of Operations for Utilities Services of South Carolina, Inc.). ORS provided the testimony of Paul B. Townes (Audit Manager), Willie J. Morgan (Program Manager), and Dr. Douglas Carlisle (Economist).

In considering the Application of USSC, the Commission must consider competing interests; the interests of the customers of the system in receiving quality service and a quality product at a fair rate, as well as the interest of the Company to have the opportunity to earn a fair rate of return. Balancing those interests in the present case,

this Commission believes that the interests of the customers of the system in receiving quality service and a quality product at a fair rate have been addressed by the public witnesses, while the Company has failed to adequately present a case for a change in the level of revenues approved in Order No. 2006-22. The Company has failed to meet its burden of proof in several respects, and it has failed to provide this Commission with sufficient information to show measures that it has taken to justify a rate increase since the Company's last rate case, especially in view of the continuing complaints with regard to quality of service by the Company's customers. Although the Company has submitted into the record various dollar amounts allegedly expended by the Company on capital improvements, plant additions, and repairs, the Company has failed to identify for the most part where the expenditures were made, or how such expenditures contributed to improved service. Further, Company testimony referred to some specific improvements made to the Company's systems, but failed to identify the particular systems affected. In addition, the Company has failed to provide required information regarding affiliate transactions with its affiliate Bio-Tech, and has failed to provide evidence on at least one violation of South Carolina Department of Health and Environmental Control (DHEC) standards. Lastly, the Company has failed to support its request for a rate increase to its distribution-only customers. When examined as a whole, we believe that these omissions constitute a failure to meet the burden of proof on the part of the Company. For this reason, we deny and dismiss the Company's application in this case. Further discussion follows.

II. USSC OBJECTION TO CUSTOMER TESTIMONY

The Commission heard from the public at three hearings. At the first public hearing on November 5, 2007, USSC raised an objection to the Commission receiving and relying upon customer testimony, documents, and related exhibits “consisting of unsubstantiated complaints regarding customer service, quality of service, or customer relation issues.” The Company renewed this objection at the hearings on November 7, 2007, and December 13, 2007. Tr. 1 at 9-10; Tr. 2 at 13; Tr. 3 at 6. Through this objection, USSC claims reliance on such testimony denies it due process of law, permits customers to circumvent complaint procedures, and is an inappropriate basis for the adjustment of just and reasonable rates. *Id.* In support of these arguments, USSC cites Patton v. Public Service Commission, 280 S.C. 288, 312 S.E.2d 257 (1984), the Order in the Court of Common Pleas in Tega Cay Water Service v. S.C.P.S.C., C/A No. 97-CP-40-0923 (September 25, 1998), and the Commission’s Order No. 1999-191 in Application of Tega Cay Water Service, Inc, Docket No. 96-137-WS. *Id.*

However, these cases do not support USSC’s general argument that the Commission has denied it due process, nor do the cases stand for the proposition that the Commission’s complaint process was unlawfully circumvented when the Commission heard public testimony regarding customer service complaints. With one exception to be discussed *infra*, the Company’s objection must be overruled.

First, there has been no due process violation. The Company had the opportunity to file responses to its customers’ testimony, and it did so. USSC Letter (dated December 10, 2007). *See also* Haas Conditional Direct Testimony. Tr. 3 at 215. In addition, the

Company had the opportunity to cross-examine witnesses and took advantage of that opportunity. Tr. 1 at 48, 51, 65, 76; Tr. 2 at 58, 67, 72; Tr. 3 at 14, 45, 49.

Second, no circumvention of complaint procedures occurred. The evening public hearings held in this case were for the express purpose of garnering public opinion regarding the proposed rate increase. In a rate proceeding, “quality of service” is a long-established element of what this Commission must consider in arriving at just and reasonable rates for the Company. See Patton v. Public Service Commission, supra. Consideration of customers’ complaints regarding the Company’s service is a component of “quality of service.” Furthermore, nothing in the Commission’s statutory authority or regulations indicates that the customer complaint-filing process is the exclusive vehicle for raising issues regarding a company’s quality of service. See 26 S.C. Code Ann. Regs. 103-824 (Supp. 2007).¹

It is ORS’ position that the challenged customer testimony is admissible in these proceedings. Tr. 1 at 10-11; Tr. 2 at 13-14; Tr. 3 at 6. The ORS also argues that the cases cited by USSC fail to support its grounds for objection. Id. In addition, ORS requested that USSC submit letters to the Commission specifying objectionable portions of public testimony and the specific reasons for its opposition.² Id.

¹ The regulation states in pertinent part: “Any person complaining of anything done or omitted to be done by any person under the statutory jurisdiction of the Commission in contravention of any statute, rule, regulation or order administered or issued by the Commission, may file a written complaint with the Commission, requesting a formal proceeding...” S.C. Code Ann. Regs. 103-824 (Supp.2007).

² On December 10, 2007, USSC responded to ORS’s request to produce a letter specifying its objections to certain public testimony and the reasons for its opposition by filing a letter with the Commission. In this letter, USSC restates its continuing objection to public testimony for the reasons that it denies due process and unlawfully circumvents complaint procedures. It then proceeds to simply designate the witness’ testimony and exhibits that it opposes under this blanket objection. In the letter’s closing, without referencing specific witnesses, USSC states general reasons for the objection, which include assertions that “customers’ testimony does not reflect the timeframe of the issues complained of,

The Commission holds that public testimony may be admitted into the record of these proceedings. The cases cited by USSC merely stand for the principle that, while customer service is a factor to be considered in determining a reasonable rate of return in a rate proceeding, a reduction in rates based on poor quality of service must be supported by substantial evidence in the record, must not be confiscatory, and must remain within a fair and reasonable range. Patton, 312 S.E.2d at 260 (“the Commission must be allowed the discretion of imposing reasonable requirements on its jurisdictional utilities to insure that adequate and proper service will be rendered to the customers of the utility companies.”). Each of the cases cited by USSC is discussed in greater detail below.

In Patton, the South Carolina Supreme Court affirmed the premise that quality of service is, necessarily, a factor among other considerations in determining a just and reasonable operating margin when approving a rate increase. Id. (citing State Ex rel. Util. Com’n v. General Tel. Co., 285 N.C. 671, 208 S.E.2d 681 (1974)). In this case, a company offering sewerage services appealed a Commission’s rate determination that approved a lower rate increase than what the company requested. Id. The South Carolina Supreme Court found that “the determination of a fair operating margin is peculiarly within the province of the Commission and cannot be set aside in the absence

whether the customers complained to the company, or whether the customers filed a formal complaint with the Commission.” It ends by stating that the number of customers heard at the public hearings is a small percentage of its customers, and it considers this level of customer complaints as “de minimis and immaterial.”

As a state agency charged with setting rates that are just and reasonable, the South Carolina Public Service Commission considers all customer complaints in some fashion. This consideration of public testimony is most readily apparent in Hilton Head Plantation Utilities v. The Public Service Commission of South Carolina, 312 S.C. 448, 441 S.E.2d 321 (1994), where the Commission’s denial of a water company’s rate increase, based in part on the testimony of only one customer, was upheld by South Carolina’s Supreme Court. At a minimum, such testimony has the potential of making the Commission aware of areas in which a company needs to provide more evidence before granting a rate increase.

of showing that it is unsupported by substantial evidence in the record.” Id. at 259. To reach this finding, the Court noted that S.C. Code Ann. § 58-5-210 (1976) vests the Commission with authority to supervise and regulate the rates and service of every utility in the state. It concluded that substantial evidence in the record existed to support the Commission’s concern regarding the Company’s quality of service.

The Company’s next cited opinion, the Order of the Court of Common Pleas in Tega Cay Water Service v. S.C.P.S.C. resulted from an appeal by Tega Cay Water Services, Inc. of Commission Order No. 96-879 (the “TCWS Order”). This Circuit Court opinion restricts the Patton holding by maintaining that customer testimony related to poor quality of service, if not corroborated by other substantial evidence in the record, fails to support a Commission order giving an insufficient rate of return. The operating margin in the TCWS case was 0.23%, which prevented the utility from recovering expenses and the capital costs of doing business, according to the Court. TCWS Order at 6.

In the TCWS case, the Commission admitted that the Company’s return was insufficient but argued that such a low return was warranted by customer complaints about the quality of service rendered by the Company. Id. However, the Circuit Court stated that the Commission made this determination solely on the complaints of six customers out of a total customer base of 1,500 people, despite the Commission’s staff finding that TCWS provided acceptable service. Id. at 2-7. The Circuit Court held that these six customer complaints were not sufficient, alone, to support the Commission’s determination. It further held that the Commission may not credit testimony such as

“dirty water” as evidence of poor service quality, and must explicitly find the service was substandard according to some ascertainable criteria. See Id. at 7-8.

In reversing the Commission’s Order, the Circuit Court went on to state that the Commission failed to satisfactorily provide a standard for determining what constitutes adequate service or indicate what increases in rates would have been approved had the services been found adequate. Id. at 8. It remanded the case with instructions for the Commission to set a rate that was not confiscatory and remained within a fair and reasonable range. See Id. at 6-7, 9. On remand in Order No. 1999-191, the Commission avoided relying on customer complaints. Order on Remand at 1.

The logic of the actual holdings in the cases cited by USSC is evident after considering the standard of review the Commission is held to in the appellate process. Justice Harwell stated the standard of review succinctly in Patton v. Public Service Commission:

Pursuant to S.C. Code Ann. § 1-23-380 (1982), a court may not substitute its judgment for that of the Commission as to the weight of the evidence on the question of fact. The findings of the Commission are presumptively correct and have the force and effect of law. South Carolina Electric and Gas Co. v. Public Service Commission, 275 S.C. 487, 272 S.E.2d 793 (1980). Therefore, the burden of proof is on the party challenging an order of the Commission to show that it is unsupported by substantial evidence and that the decision is clearly erroneous in view of the substantial evidence on the whole record. Lark v. Bi-Lo, Inc., 276 S.C. 130, 276 S.E.2d 304 (1981). The Public Service Commission is recognized as the “expert” designated by the legislature to make policy determinations regarding utility rates; thus the role of the court reviewing such decisions is very limited. See, e.g. Southern Bell Tel. and Tel. Co. v. Public Service Comm., 270 S.C. 590, 244 S.E.2d 278 (1978) 312 S.E.2d at 259.

Under this standard of review, it is necessary for the Commission to base its findings on substantial evidence that is supported by the record in order for courts to look

back and know that Commission decisions are grounded on fact. With this mandate in mind, the Commission does not agree with USSC's apparent argument that these cases stand for the proposition that the Commission is not entitled to consider the testimony and evaluate the credibility of public witnesses in the ratemaking process. USSC essentially argues that the testimony of public witnesses is "unsubstantiated" and therefore may not be considered. Tr. Vol. 1 at 9-10; Tr. Vol. 2 at 13; Tr. Vol. 3 at 6. However, neither the cases cited by USSC, nor other precedents in rate cases support such a conclusion. If this argument was accepted, there would be no purpose for public hearings, admittedly a result advantageous to a company such as USSC, which has been subjected to a great deal of criticism by its customers, but also a result which is contrary to Supreme Court precedent, which has recognized the role of public testimony in the ratemaking process. Patton, 312 S.E.2d at 260; Seabrook Island Property Owners Association v. South Carolina Public Service Commission, 303 S.C. 493, 401 S.E.2d 672, 675 (1991) (stating "It is incumbent upon the PSC to approve rates which are just and reasonable...considering the price at which the company's service is rendered and the quality of that service.")

Accordingly, we overrule the Company's objection, with one exception. During the public portion of the hearing held on December 13, 2007, the Company objected to any testimony of John T. Snavely, who asserted that, because he was a customer of the utility, he should automatically be a party to the case. USSC asserted that Snavely had not petitioned the Commission to intervene as a party in this matter and that no such intervention had been granted. We agree that Mr. Snavely was not automatically a party in this matter by virtue of his being a customer. Further, however, the Company stated

that in order for a person to interject legal argument before the Commission, he or she must be admitted as a party of record and represented by counsel admitted to practice in South Carolina. Although we note that Mr. Snavelly referred to the term “due process” in his statements to the Commission, we believe that his point about the timing of the prefilings of testimony and the public hearings and other comments may as well be construed as comment on the Commission’s conduct of this case. He was certainly entitled to express his opinions on the procedural issue and make any other relevant statements with regard to the case under our regulations without being admitted as a party of record. We therefore overrule the remainder of the Company’s objection to Mr. Snavelly’s testimony. Although Mr. Snavelly could not be a party to the proceeding under the circumstances, his testimony will remain in the record.

III. THE COMPANY FAILED TO MEET ITS BURDEN OF PROOF

A. CAPITAL IMPROVEMENTS

Although the Company presented general testimony through witness Bruce Haas about capital improvements, the testimony was by and large non-specific as to location or what systems were improved. For example, at Tr. Vol. 3 at 206, 210, and 253, Haas testifies that the Company employs a capital improvements program, as well as on-going operational programs. Haas describes routine testing and periodic water main flushing to improve water quality, sequestering agents to reduce the effects of naturally occurring minerals in groundwater, and annual cleaning of between 10 and 20 percent of sewer collection mains as examples of ongoing operational programs. However, Haas rarely indicates where these capital improvements or on-going operational programs have been instituted. For example, when specifically asked by a Commissioner what capital

improvements or operational programs have been employed in the Plantation subdivision, Haas was unable to identify such improvements or operations. Tr. 3 at 259.³

Further, despite these discussions of capital improvements and on-going operational programs, customers in a number of subdivisions continue to complain about water quality. Mark Kendrick of the Ridgewood Farms subdivision was one such customer. Tr. 1 at 27. Mark Jennings of the same subdivision stated that his water turns black three to four times a year. Id. at 32. Linda Hogan Fick of the Shandon subdivision complained of water quality that was “terrible” and that the water contained excessive amounts of chlorine. Id. at 38. Essmaeil Maghsood of the Plantation subdivision testified that he was forced to wash his clothes at his business, which is served by another water provider, due to the poor quality of the water serving his home. Id. at 53. Bill Bracken, also of the Plantation subdivision, complained about water quality and stated that he had to use water softeners and filters. Id. at 77. Mike Loftis of the Bridgewater subdivision in Anderson County also complained about the quality of the water and stated that his water had a “chlorine” smell. Further, his water pressure was low. Tr. 2 at 61. Although we do not base our denial of this Application solely on water quality concerns, the complaints of the stated individuals do raise questions as to where the capital improvements and on-going operational programs testified to by the Company witness were implemented, and whether they were effective. This Commission simply cannot tell where the improvements and operational programs made by the Company were instituted by examining the Company testimony.

³ Plantation subdivision is located in York County, South Carolina.

USSC's Application states as part of its "Need and Justification for Rate Relief" that the proposed rate increase would "promote continued investment in and maintenance of its facilities, and thereby permit Applicant to continue providing reliable and high quality water and sewer services." USSC Application at 4. As seen from the testimony quoted above, it is questionable whether the Company has provided high quality water service in many cases, even after receiving the rate increase awarded in Order No. 2006-22. For example, Mark Jennings, a customer in the Ridgewood Farms Subdivision, stated he had not seen any increase in service or quality since the last rate increase. Tr. 1 at 33-34.

This Commission sits like a jury of experts. Hilton Head Plantation Utilities, Inc. v. The Public Service Commission of South Carolina, supra ("Hilton Head"). We are simply not able, as a jury in this case, to find that USSC made all of the capital improvements alleged, nor that it performed all of the on-going operational programs that it alleges for ratemaking purposes. The Company states that it made the capital improvements and performed the operations, but the testimony of the public witnesses taken as a whole calls the Company testimony into question, especially given the lack of system-specific testimony by the Company. Without more specificity on the part of the Company, we are unable to credit the Company with the capital improvements and on-going operational programs that it purports to have made.

B. AFFILIATE TRANSACTIONS

The Company also failed to prove that certain payments to an affiliate for sludge hauling services were reasonable. The Company was not able to provide comparable quotes for sludge hauling from other entities that could be compared with USSC affiliate

Bio-Tech's sludge hauling costs. See Testimony of Company witness Georgiev, Tr. 3 at 184. Although the Company witness stated that she "thought someone in the Company had performed such a study," she, as the accounting witness for the Company, had no information in this area. Without price comparison data, the Commission has no way to determine whether the Company's affiliate Bio-Tech was providing the sludge hauling service at a fair price. The Company's burden of proof regarding affiliate transactions has been addressed by the Supreme Court in the Hilton Head case.

In Hilton Head, the Commission denied a rate increase to a Company which had failed to provide sufficient information with regard to comparative costs regarding the costs of certain affiliate transactions. In that case, the Utility argued that all amounts paid were reasonable simply because they were paid. The Supreme Court held that the burden of proof of the reasonableness of expenses incurred, in the context of a rate case, rests with the Utility. Further, the Supreme Court stated that when payments are made to an affiliate company, a mere showing of actual payment does not establish a *prima facie* case of reasonableness. In addition, the Supreme Court noted that charges arising out of intercompany relationships between affiliated companies should be scrutinized with care, and if there is an absence of data and information from which the reasonableness and propriety of the services rendered and the reasonable cost of rendering such services can be ascertained by the Commission, allowance is properly refused.

Accordingly, in this case, the Bio-Tech costs included in the Company's case must be denied because the Commission was unable to properly scrutinize the propriety of the Bio-Tech costs due to a lack of comparative data.

C. DHEC VIOLATIONS

Neither Company witness Haas, nor any other Company or ORS witness, addressed the fact that the Shandon water system in the Rock Hill area of York County had exceeded the lead “action level” for the monitoring period of June through September 2006. Linda Hogan Fick, a customer, actually presented a letter from the Company, dated December 8, 2006, addressing this issue. Tr. Vol. 1 at 38-39. Hearing Exhibit 1.

Although Haas’ conditional direct testimony addressed other concerns raised by Ms. Fick, it failed to address the lead violation raised by her exhibit. Further, Haas’ rebuttal testimony dealt at some length with DHEC violations; however, he again failed to address DHEC’s notice of the Shandon water system’s exceedance of the lead action level for the above-referenced monitoring period, which is a period within the test year.

The failure of either the Company (or the Office of Regulatory Staff) to address this matter makes us question what other DHEC violations might have occurred with the USSC systems that were not brought to the attention of the Commission. Commission Regulations 26 S.C. Code Ann. Regs. 103-514.C and 103-714.C require wastewater and water utilities, respectively, to provide notice to the Commission of any violation of PSC or DHEC rules which affect the service provided to its customers. Such notice must be filed within 24 hours of the time of the inception of the violation and must detail the steps to be taken to correct the violation, if the violation is not corrected at the time of occurrence. Under the further terms of the Regulation, the Company must notify the Commission and the Office of Regulatory Staff in writing within 14 days after the violation has been corrected.

No notice was provided to this Commission with regard to the “action level” for lead having been exceeded in the Shandon neighborhood in York County. This Commission believes that this violation should have surely been reported. Once Ms. Fick raised the specter of a DHEC lead violation, the Company should have furnished responsive information. This glaring omission raises the question as to what additional DHEC violations might have gone unreported from the Company’s systems. This is a matter of major concern for the safety and welfare of the Company’s customers. Again, the Company failed to furnish necessary information and failed to meet its burden of proof.

D. ANDERSON AND DISTRIBUTION-ONLY CUSTOMER RATES

The testimony of a number of the Company’s customers from Anderson County is troubling to this Commission. The gravamen of the testimony is that a number of USSC customers are paying significantly more than their neighbors who are on various nearby municipal water systems.

Customers testifying on this topic were numerous, both at the evening public hearing in Anderson and at the public portion of the hearing at the Commission’s offices. Ms. Melanie Wilson of the Lakewood subdivision testified in Anderson that USSC customers in that subdivision already pay 142% more than their neighbors in the Green Hill subdivision, who are customers of Hammond Water District. Implementation of the revenue increases in the proposed orders submitted to us by the Office of Regulatory Staff and the Company would result in Lakewood residents paying an estimated 182% more than Green Hill residents, based on the Hammond usage rate of \$2.34 per 1,000

gallons. Other testimony on striking differences between USSC distribution-only rates and rates charged by other systems in proximate areas was provided by Mike Walsh, Tr. 2 at 53, Richard Gibson, Id. at 22-26, and John Broom, Id. at 38-41 (with all three also being residents of Lakewood Subdivision); William Cooke, Id. at 30 (resident of Green Forest served by USSC, with the other system in close proximity being owned by the West Anderson municipal system); Scott Johnson, Id. at 38-40 (resident of Hidden Lakes Subdivision, with West Anderson as the nearby provider); Anthony Thompson, Id. at 60-62 (resident of Bellemeade Subdivision); Johnny Fuller, Id. at 64; Larry Chatham, Id. at 79-82 (resident of Clearview Subdivision, with West Anderson being the municipal provider in close proximity); and Claire Hicks, Id. at 83-85 (lives in Town Creek Acres, with the Hammond system being in close proximity).

Also, certain customers in York County presented similar testimony. Brent Morehead, Tr. 1 at 19 (resident of Silver Lakes, with a complaint that York County rates are less); and Essmaeil Maghsood, Id. at 53-61, Hearing Exhibit 2 (resident of Plantation subdivision, with a complaint that Rock Hill water is less expensive).

This testimony raises questions of fairness with regard to the price paid by the distribution-only customers of the Company, again, noting that the Company does propose an increase in the distribution-only rates in this case. We have searched the record, but have been unable to find any evidence supporting an increase in this particular rate, other than the general Company testimony on revenues and expenses. Further data on the Company's cost of providing water to the distribution-only customers should have been provided, especially given the apparent disparity between the rates presently charged by the Company to its distribution-only customers, as compared to the rates

charged by the various adjoining municipal systems. Again, the Company has simply failed to meet its burden of proof.

This Commission understands that the Company has no control over the rates that it must pass through from, for example, the various municipal systems serving Anderson County to its distribution-only customers. It may be the case that the neighboring water system is providing distribution services to its customers at a deep discount. Haas pointed to the fact that the Hammond Water Service District does not extend a discount to USSC for its bulk purchases of water. Tr. 3 at 219. However, these factors alone, without further explanation, do not explain the gross disparities in water rates between USSC and its neighboring systems. If the difference in rates is justifiable, the customers deserve to know why. Many of the Company's customers questioned these disparities, and without some factual explanation of why they exist, this Commission is unwilling to further exacerbate them.

IV. GENERAL DISCUSSION

As stated supra, S.C. Code Ann. Section 58-5-210 (1976) notes that the Public Service Commission is vested with the power and jurisdiction to supervise and regulate the rates and service of every public utility in this State, together with the power, after hearing, to ascertain and fix such just and reasonable standards, classifications, regulations, practices and measurements of service. Further, it is incumbent upon the Commission to approve rates which are just and reasonable, not only producing revenues and an operating margin within a reasonable range, but which also distribute fairly the revenue requirements, considering the price at which the company's service is rendered

and the quality of that service. Seabrook Island Property Owners Association v. South Carolina Public Service Commission, et al, supra.

The failure of the Company to meet its burden of proof in this case makes it impossible for this Commission to determine whether or not the proposed rates of the Company are just and reasonable. We cannot tell whether the proposed “price at which the company’s service is rendered” is reasonable. The Company claimed capital expenditures and system improvements, but in large part, did not identify the systems where these expenditures and improvements occurred. Accordingly, we could not identify whether the expenditures were appropriate and whether these justified the imposition of a rate increase on the Company’s customers.

The information provided by the Company is insufficient to allow us to make any determination as to the appropriateness of the proposed rates and charges. Accordingly, the proposed rates are unjust and unreasonable, and the application must be denied and dismissed. The Company’s rate of return on equity will remain at 9.75%, the rate of return on rate base will remain at 8.37%, and the Company’s operating margin will remain at 11.29%. See Order 2006-22. Accordingly, we make the following

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Utilities Services of South Carolina, Inc. is a water and wastewater utility supplying water supply and distribution services to 6,854 residential and commercial customers, and providing wastewater collection and treatment services to 376 residential and commercial customers.

2. USSC provides its services to portions of Abbeville, Anderson, Lexington, Richland, Saluda, and York Counties.

3. Order No. 2006-22, dated January 19, 2006, approved a revenue increase for the Company of \$614,708. USSC now seeks approval of additional revenues of \$772,965, as per the proposed Orders of the Company and the ORS.

4. The Commission heard testimony from members of the public at two evening public hearings in York and Anderson Counties and at the hearing held at the Commission's offices.

5. The Commission heard testimony from witnesses for the Company and for the Office of Regulatory Staff at the December 13, 2007, hearing at the Commission's offices.

6. In considering the Company's Application, the Commission must consider two competing interests. The first interest is that of the customers of the system in receiving quality service and a quality product at a fair rate. The second interest is that of the Company to have the opportunity to earn a fair rate of return. Balancing those interests in the present case, this Commission believes that the interests of the customers of the system in receiving quality service and a quality product at a fair rate have been addressed by the public witnesses, while the Company has failed to adequately present a case for a change in the level of revenues approved in Order No. 2006-22.

7. The Company has failed to meet its burden of proof in several respects and has failed to justify rate relief at this time.

8. The Company has failed to identify the location of alleged capital expenditures or how the expenditures improved service.

9. The Company has failed to provide required comparable information with regard to affiliate transactions with its affiliate Bio-Tech.

10. The Company has failed to provide evidence on a violation of DHEC standards.

11. The Company has failed to show why a rate increase to the distribution-only customers in Anderson County, or in the rest of the Company's service area, would be just and reasonable.

12. The objections of USSC to the Commission receiving and relying on customer testimony, documents, and related exhibits are overruled, except for the objection to public hearing witness Snavelly's ability to be denominated as a party to the case. This portion of the objection is sustained.

13. The Company has failed to meet its burden of proof in the areas of capital improvements, affiliate transactions, DHEC violations, and the level of rates for distribution-only customers.

14. The Commission's jurisdiction over this case is derived from S.C. Code Ann. Section 58-5-210 (1976), which states that the Public Service Commission is vested with the power and jurisdiction to supervise and regulate the rates and service of every public utility in this State.

15. The Seabrook Island Property Owners Association case requires this Commission to approve rates which are just and reasonable, not only producing revenues and an operating margin within a reasonable range, but which also distribute fairly the revenue requirements, considering the price at which the company's service is rendered and the quality of that service.

16. The failure of the Company to meet its burden of proof in this case makes it impossible for this Commission to determine whether or not the proposed rates of the Company are just and reasonable.

17. The Commission cannot tell whether the proposed “price at which the Company’s service is rendered” is reasonable.

18. The Commission could not identify whether the proposed expenditures were appropriate, and whether these justified the imposition of a rate increase on the Company’s customers.

19. The information provided by the Company is insufficient to allow the Commission to make any determination as to the appropriateness of the proposed rates and charges.

20. Pursuant to the Finding in No. 19 above, the proposed rates are unjust and unreasonable, and the application must be denied and dismissed.

21. The Company’s rate of return on equity will remain at 9.75%, the rate of return on rate base will remain at 8.37%, and the Company’s operating margin will remain at 11.29%, pursuant to Order No. 2006-22.

VI. ORDER

IT IS THEREFORE ORDERED:

1. That the Company's Application is denied and dismissed.
2. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



G. O'Neal Hamilton, Chairman

ATTEST:


C. Robert Moseley, Vice-Chairman

(SEAL)